HIGH COURT OF UTTARANCHAL, AT NAINITAL

Criminal Misc. Application No.08 of 2006

Jagdish Prasad S/o late Kundan Lal
At present working as Peshkar in S.D.M. Court
Kotdwar, Tehsil Kotdwar
District Pauri Garhwal .....Applicant

Versus

1. State of Uttaranchal
2. IInd Fast Track Court, Nainital .....Respondents

Hon'ble J. C. S. Rawat, J.

1. Heard Sri H. S. Rawatl learned counsel for the applicant and learned A.G.A.

2. The petition under section 407 Cr.P.C. has been filed with the prayer to transfer the criminal case No.15/2004 State Vs. Jagdish Prasad under section 7/13(1)(D) read with section 13(2) Prevention of Corruption Act 1988, pending in the court of IInd F.T.C., Nainital, to District Dehradun.

3. The main ground for seeking transfer of the aforesaid case is that the witnesses of the case also made an application before the trial court for their convenience that the case may be transferred from Nainital to Dehradun. It has been further alleged in the transfer petition that the State of Uttaranchal issued a Notification No.862/XX(3)-50/Police /2005 Dehradun dated 24.05.2005 by which the special court was created at Dehradun to try the anti-corruption cases in Western Uttaranchal. After issuing the said notification, the Special Court of Nainital seized its jurisdiction regarding the cases arising out of from the Garhwal region. I have perused the said notification. The said notification does not contain any such clause by which the Government or the High Court has directed to transfer the pending trial in any of the court. In absence of such clause, the jurisdiction of the pending

cases cannot be held to be seized to the court who is hearing the pending cases. The chargesheet was submitted in the year 2004 and as such the case was filed prior to the issuance of the notification. The learned counsel for the applicant could not show that as to how the jurisdiction of the court has been seized with regard to the pending cases.

4. The other ground for transfer of the case is that the witnesses of this case have also moved an application to transfer the case to the District Dehradun. I am of the view that the accused persons cannot take this ground for transfer of the case. If the witnesses had any grievance, the State would have filed the application for transfer of the case. The witnesses have not made any grievance and as such this ground cannot be considered by this Court.

5. Learned counsel for the applicant further contended that the case is pending since long and as such it may be transferred. Learned AGA refuted the contention and contended that this cannot be a ground for transfer of the case.

6. In view of the above, there is no merit in the transfer petition. Therefore, the transfer petition is dismissed accordingly. All the pending miscellaneous application(s) in this case, if any, shall stand disposed of accordingly.

(J. C. S. Rawat, J.)

Dated 19.05.2006
LSR